

REMARKS

Claims 1–15 are pending in this application. By this Amendment, claims 6 and 9–12 are amended to be in independent form. Support for the amendments to the claims may be found, for example, in the original claims, and throughout the specification. No new matter is added.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Interview

The courtesies extended to Applicants' representative by Examiner Harris at the interview held May 1, 2008, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

II. Allowable Subject Matter

The Office Action, on page 3, indicates that claim 6 recites allowable subject matter. Specifically, this claim is indicated as allowable if rewritten in independent form to include all of the features of the base claim and any intervening claims. By this Amendment, the subject matter of claim 1, from which claim 6 depends, is incorporated into claim 6. Additionally, by this Amendment, claims 9–12 are amended to be in independent form and contain at least all the features of claim 6. Accordingly, allowance of claims 6 and 9–12 are respectfully requested.

III. Rejection under 35 U.S.C. §102(b)

The Office Action rejects claims 1–5 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,663,261 to Hori et al. (hereinafter "Hori"). Applicants respectfully traverse the rejection.

Claim 1 recites (emphasis added):

a liquid-absorbing resin layer capable of absorbing a nonaqueous electrolyte solution and shows adhesion, wherein the liquid-absorbing resin layer comprises a polymer of a monomer composition, the monomer composition containing: a monofunctional monomer component (A) comprising a polyethylene glycol acrylate monomer and an amide bond-containing acrylic monomer; and a polyfunctional monomer component (B).

Such features are not taught or suggested by Hori.

Specifically, Hori does not teach a liquid absorbing resin layer "capable of absorbing a nonaqueous electrolyte solution and shows adhesion." Instead, Hori teaches a resin that is easily washed away and tack-free. See Hori, col. 1, lines 55-60 and col. 6, lines 6-14, reproduced below for convenience, respectively (emphasis added).

Accordingly, an object of the present invention is to provide a film-forming resin which remains tack-free even under a high humidity, is capable of sustaining the hair style for a prolonged period of time, can be easily washed away with a shampoo or water....

The film-forming resin of the present invention remains tack-free not only under a normal humidity but also under a high humidity and provides the hair care products with an excellent styling power and a lasting set-retaining power. Nevertheless, it can be easily washed away by washing with water or shampooing in a conventional manner, since it carries amino groups which have been neutralized or quaternized and thus is highly soluble in water.

A liquid resin layer that is easily washed away and tack-free is not a liquid absorbing resin layer "capable of absorbing a nonaqueous electrolyte solution and shows adhesion," as required by claim 1. Therefore, Hori does not teach each and every element as set forth in the claim 1 and, thus does not anticipate claim 1.

Hori does not anticipate claim 1. Claims 2-5 variously depend from claim 1 and, thus, also are not anticipated by and would not have been rendered obvious by Hori.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

IV. Finality of the Next Office Action

In the Office Action, claims 1–5 are rejected under 35 U.S.C. §102(b) and claim 6 is considered allowable if rewritten in independent form, however, claims 7–15 are not addressed by the Office Action. As these claims are not addressed, the next Office Action that issues in the above-identified application cannot properly be made Final, as explained below.

Although the Summary of the Office Action indicates that claims 1–15 stand rejected, the Detailed Action omits any explanation of how claims 7–15 are rejected. Therefore, this omission amounts to a failure to articulate a prima facie case of unpatentability and the burden to rebut this “rejection” has not yet shifted to the Applicant. Consequently, a next Office Action rejecting claims 7–15 cannot properly be made final since only then would the Applicant be obligated to rebut the rejection, presuming that such an Office Action sets forth a prima facie case. See MPEP § 706.07(a).

V. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Amendment Transmittal
Petition for Extension of Time

Date: May 27, 2008

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